

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON FEDERAL RELATIONS, ENERGY, AND TELECOMMUNICATIONS

Call to Order: By **CHAIRMAN AUBYN A. CURTISS**, on January 9, 2001
at 3:00 P.M., in Room 137B Capitol.

ROLL CALL

Members Present:

Rep. Aubyn A. Curtiss, Chairman (R)
Rep. Tom Dell, Vice Chairman (D)
Rep. Douglas Mood, Vice Chairman (R)
Rep. Dee Brown (R)
Rep. Roy Brown (R)
Rep. Stanley Fisher (R)
Rep. Gary Forrester (D)
Rep. Carol C. Juneau (D)
Rep. Gary Matthews (D)
Rep. Alan Olson (R)
Rep. Trudi Schmidt (D)
Rep. Bob Story (R)
Rep. Joe McKenney (R)

Members Excused: None.

Members Absent: None.

Staff Present: Staci Leitgeb, Committee Secretary
Stephen Maly, Legislative Branch

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 35, 1/7/2001; HB 88,
1/7/2001
Executive Action: None taken

The meeting was opened by committee member introductions.

HEARING ON HB 88

Sponsor: REPRESENTATIVE MONICA LINDEEN, HD 7, Huntley

Proponents: None

Opponents: John Fitzpatrick, Touch America
Mike Strand, Montana Independent Telecommunications
Geoff Feiss, Montana Telecommunications Association
Herald Blatti, Commissioner Stillwater County

Opening Statement by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 1.9}

REPRESENTATIVE MONICA LINDEEN, HD 7, Huntley, stated that HB 88 simply expands the type of infrastructure projects that can be funded for grants through the treasure state endowment program. HB 88, if passed, would include advanced telecommunication systems as infrastructure. On page 2 on HB 88, advanced telecommunication systems is defined as meaning high-speed dedicated or switched broadband telecommunications capability that enables users to originate and receive high quality voice, data, graphics, and video telecommunications using any technology. Traditionally projects funded under Treasure State Endowment Program have included waste water treatment, sanitary sewer and storm systems, solid waste disposal and bridges. The reason for expanding the definition to include telecommunications projects is simply the importance of access to telecommunications in local communities. Telecommunications as infrastructure has become as important to the economy of Montana as any other infrastructure. An example of a type of project that might be considered is something that is happening in Miles City in Rep. Matthews area which is Miles City VA Redevelopment Task Force. Which has been looking at how they could utilize the VA hospital as a high tech training center where other high tech businesses could come in and do business. They have put together a working group; the local economic development group, the local community, Miles City Community College are trying to put together a plan that would allow them to do this. Obviously, once they have this plan together there is going to be some costs involved. One of those things they will have to consider is actually wiring the building so they can do the things they want to do. This program would be a way for them to get some money to do those types of things.

Opponents' Testimony:

{Tape : 1; Side : A; Approx. Time Counter : 6.5}

John Fitzpatrick, Touch America, stated that this bill provides grant money for functions such as drinking water system, waste water treatment systems, sanitary sewers, solid waste and bridges. These are functions that are preeminently if not exclusively governmental in nature and have been so ever since the inception of the state of Montana. By including advanced telecommunication system, you are bringing into this particular program a function that is preeminently private in nature. Telecommunication services are provided in Montana by profit companies and by a number of cooperative associations. Do you want to change the nature of this program to allow it to participate in infrastructure development that the private sector is currently providing? What are the limits of the program? Right now as this bill is drafted there are really no limits. The bill could be used so that projects could be developed that are very narrow in focus, such as the one that Representative Lindeen identified at the hospital building where funds may be used to wire a building. There is nothing really to prevent a unit of local government to apply for funds for building competitive telecommunication system within the boundaries of their particular area. What is the potential impact on the existing telecommunications industry? The Federal Telecommunications Act of 1996 made a national priority the creation of competitive telecommunications services at the local level. We have a number of companies in Montana who are starting that particular process. These people are out investing some serious sums of money building telecommunications infrastructure. Will this bill create competition for those companies? Who are the intended beneficiaries of this particular pact? The Treasure State Endowment Program is operated exclusively as a funding mechanism for municipal government. He is unsure that this bill as, it's currently written, limits any of those grants to units of local government or if it is intended to reach out and perhaps provide funding for other parties as well.

Mike Strand, Montana Independent Telecommunications Systems, represents independent rural telephone companies and telephone cooperatives. The bill in its current scope is a little too broad, however he does understand and appreciate some of what Representative Lindeen indicated. From their perspective they have invested and are continuing to invest millions of dollars in rural Montana to bring advanced telecommunication services to these sparsely populated areas. The concern that they have is that their problem right now is generating demand for those services. People have not yet really developed a use for broadband services in their day-to-day lives. They believe people will as they see the ramifications for advanced services to their day-to-day lives. The concern is, as broad as the bill

is currently drafted, are we going to see duplication of facilities where there is really insufficient demand for the facilities that currently exist. Where they see an opportunity perhaps for this bill is in those situations, where for technological reasons or economic reasons, they simply can't justify deploying advanced services in particular areas.

Geoff Feiss, Montana Telecommunications Association, talked about the generating demand theme. To the extent that there are measures to provide incentives for the acquisition of private telecommunications services, then that is a good thing; but to the extent that this could be interpreted by aggressive and creative bureaucrats to enable them to have the authority to build, own, acquire, manage and otherwise operate telecommunications networks that have the effect of competing against the private investment, it would be a bad thing. The bill has the potential of providing incentives to stimulate demand and also has the potential to provide incentives to impede private investments.

Herald Blattie, Commissioner Stillwater County, thinks Representative Lindeen should be commended for bringing this issue up for discussion. Everyone recognizes the advancing need for telecommunications and the infrastructure surrounding it. His perspective is that the Treasure State Endowment Program is seriously underfunded presently. How many applications were received this year that will not receive funding for basic services? We all collectively understand the need for the basic infrastructure to enjoy any economic development in this state. Quite frankly, if we don't have roads and streets and sewers and water systems we are not going to attract business in this state. If folks can't get drinking water and can't flush their toilet they are not going to care how much broadband access they have.

Questions from Committee Members and Responses:

{Tape : 1; Side : A; Approx. Time Counter : 19.7}

REPRESENTATIVE FORRESTER asked if this bill would take away funding from projects on the list and put those infrastructure projects further down the list. **REPRESENTATIVE LINDEEN** stated that, as the bill currently reads, there is a ranking system. Her intent is that these projects be considered just as the other projects be considered with the current ranking system. Obviously, if you were to look at the ranking system, page 3, section 96-710, priorities for projects, section 2, in preparing recommendations under subsection 1, preference must be given to

infrastructure projects based on the following order of priority. The very first item there lists projects that solve urgent and serious public health or safety problems or that enable local governments to meet state or federal health or safety standards. If there is a very serious water situation in a community, obviously that project would be considered over a telecommunications project.

REPRESENTATIVE STORY asked if the definition on page 2 of advanced telecommunications is the same definition that is used in the Advanced Telecommunications Infrastructure Credit Program that we passed last session that gives tax credit for advanced communications. **REPRESENTATIVE LINDEEN** stated that she could not say for sure, but she had a feeling that it probably is because the drafter used an existing definition.

REPRESENTATIVE MOOD stated that there are 32 different loan programs in the state of Montana. Is there some reason you have chosen that or did you look at the other programs available?

REPRESENTATIVE LINDEEN stated that she would be happy to look at the other programs as well. She chose this particular program because it talked about infrastructure projects and she believes that telecommunications and access to high speed telecommunications is an infrastructure issue. She would certainly be willing to look at others as well.

Closing by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 24.3}

REPRESENTATIVE LINDEEN shared some personal background. For the past 6 years, she has been involved in the internet service industry and was an internet business owner here in Montana. She is quite tied to the private sector on this issue. Her intent was never to cause any kind of competition with the private sector. She had had some contact with each of the individuals that were opponents today and she can agree with them that the definition in this bill is probably too broad. Obviously you could also look at the fact that the Treasure State Endowment is very under funded and that for any community to have a project of any real serious size to actually compete against the private industry at this point in time wouldn't happen, but in order to insure that didn't happen in case there was some great windfall to the Treasure State Endowment Program, she would certainly be willing to work with the folks in the audience to see if they can come up with some kind of amendment to this bill that would actually narrow the scope and the definition so that we could go ahead and consider this bill as a viable option and policy

matter. It is a policy question whether or not we want to consider telecommunications as infrastructure, and whether or not you would like to do it in this format. She would hope that we would allow her to visit with these folks and come up with some kind of amendment and see if we can move forward with this.

{Tape : 1; Side : A; Approx. Time Counter : 26.8}

HEARING ON HB 35

Sponsor: REPRESENTATIVE JOE MCKENNEY, HD 49, Great Falls

Proponents: Jerry LaChere, Montana Lottery
Bob Crippen, Montana Lottery Commission
Gene Huntington, Montana Dept. of Justice,

Opponents: Julie Millum, Christian Coalition
Betty Whiting, Mt. Association of Churches
Sharon Hoff-Brodowy, Mt. Catholic Conference
Julie Ippolito, Don't Gamble With the Future

Opening Statement by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 27.2}

REPRESENTATIVE JOE MCKENNEY, HD 49, Great Falls, stated that he is carrying this bill on the behalf of the Montana Lottery.

Proponents' Testimony:

{Tape : 1; Side : A; Approx. Time Counter : 28}

Jerry LaChere, Montana Lottery, submitted written testimony.
EXHIBIT(feh06a01)

Bob Crippen, Montana Lottery Commission, stated that he is a CPA and he comes today to urge the committee to pass HB 35. He also represents the entire Lottery Commission and they unanimously voted to present this legislation here today. One of their primary responsibilities and duties as commissioners of the lottery is to maximize the net revenue that passes into the general fund of the state of Montana. In order to do this, the legislature has allowed them to offer lottery games in conjunction with other state lotteries. To date, the authority has allowed the lottery to generate 185 million in gross revenue, and an estimated 37 million in net revenue to the state of

Montana through multi-state lotteries. These games have been keyed to our financial success and they want to be able to continue to offer them. However, with the increased potential of international games, the commission may one day find itself in the position where they can't participate in a multi-state game or a multi-game because one of the members would not be a state lottery. This would result in a loss of revenue for the state of Montana. To properly execute their duties and responsibilities as commissioners they, at this point, can not stand by and take no action.

Gene Huntington, Dept. of Justice Gambling Control Division, stated that he is relatively new to the position, but understands that one of the responsibilities he will have will be the chairman of the state's Indian gaming contract negotiation committee. This state has been involved in negotiations over the past couple years with the Confederated Salish-Kootenai Tribes to extend that gambling agreement. There have been two extensions, the most recent extension which will expire in November of 2001. As part of that negotiation, they have agreed to work with the tribe to explore other gambling options, including participating in the state lottery. The change in this bill that includes tribal governments, would keep that commitment that his predecessors on this committee have made to go work with the tribe to explore these options.

Opponents' Testimony:

{Tape : 1; Side : B; Approx. Time Counter : 9.9}

Julie Millum, Christian Coalition, stated that the Christian Coalition is the states largest family advocacy organization representing some 40,000 households in Montana. The Christian Coalition of Montana has held a constant opinion that gambling is costly to our society, victimizing those among us that are least able to afford it. Expansion of the lottery will only prove to further take advantage of these citizens. Lottery prizes will only continue to grow and become larger enticements to citizens as states become more desperate to make up for budget shortfalls. Our state entered into the lottery as a teacher retirement funding mechanism, not to be in the business of sponsoring and promoting additional schemes. From 1994 to present, 33 states have said no to gambling expansion. Our society has started to realize the long-term effects and detrimental consequences of gambling. They would ask that we would become a state that says no to expansion and dependancy that has proven a problem for families of Montana and the United States especially in the low income range. Recent studies in other states, Oregon and

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Louisiana for example, have shown that apparently underage children are having little problem purchasing lottery tickets. We must ask ourselves, are we encouraging our young people to become involved in something that could be ultimately addicting and damaging? Our children are the future of this state and our country. Lets make sure we don't let them grow up to be the next era of gambling victims.

Betty Whiting, Mt. Association of Churches, urges this committee not to pass HB 35 out of their concern for their family life and social values. She is offering five reasons for voting against HB 35. First, HB 35 encourages more Montanans to spend on bigger dreams, believing that they can get something for nothing. Scripture reminds us that we can not serve both God and money. In the last Montana gambling survey, only 5% of the gambling revenue came from people residing out of state. Second, like deregulation, this is sending our power out of state. HB 35 sends the money spent on lottery tickets out of state. With our small population, the likelihood of anyone in Montana winning a lottery jackpot where we have joined with other regions is very low. Third, HB 35 is an expansion of gambling. Lotteries with new partners with higher pots are new games. The minutes of the September 20 Lottery Commission meeting reports that state reviewers at the budget office "rejected this legislation that is the first draft of HB 135" and "felt this bill was an expansion of gambling." Fourth, interest in playing the lottery in Montana is waning. HB 35 is an attempt to increase sales. Another quote from the September 20 meeting minutes, "Sales remained steady throughout the entire year, although the transfer to the general fund was down approximately 1 million dollars for the year. The approval of the lottery by the people originally was for money for our schools. The past decade has shown us that the lottery has not brought about increased money in our general budget or elsewhere for schools." Finally, a report from the Neutral National Gambling Impact Study Commission that studied gambling in the United States over a three-year period came out in June of 1999 with this conclusion: The members of the commission agreed that there is a need for a pause in the growth of gambling. Heavy governmental promotion of lotteries largely located in neighborhoods may contribute disproportionately to the culture of casual gambling in the United States. The commission therefore recommends that states curtail the growth of new lottery games, reduce lottery advertising, and limit locations for lottery machines. She urges the committee, for the sake of our children and for Montanans, to table HB 35 as an unwise expansion of the lottery in Montana.

Sharon Hoff-Brodowy, Montana Catholic Conference, stated that she heard the introductions say that this was not an expansion of

gambling, but she had a hard time figuring out how this was not an expansion. They have a pretty limited position on gambling in the Catholic Conference and it deals only with expansions and with treatment and education. She has a hard time seeing this as not being an expansion, so they are definitely opposed to HB 35.

Julie Ippolito, spoke as a proponent for the bill, about not gambling with the future'.

Questions from Committee Members and Responses:

{Tape : 1; Side : B; Approx. Time Counter : 19.8}

REPRESENTATIVE DEE BROWN said that she did not notice a fiscal note attached to this bill. Would there be more FTE's involved if this passed? **Jerry LaChere** responded that no, there is no additional requirement as far as more FTE's, nor would there be. **REPRESENTATIVE DEE BROWN** stated that he used the word "may" an awful lot during his presentation. This problem has not reared its ugly head yet then, right? **Jerry LaChere** stated that as far as a formal change where there would be a non-state lottery allowed with the game, it has not yet occurred.

REPRESENTATIVE STORY said that since the opponents talked about how the money from the original lottery intended to go to education and it is not going there. Could you run us through briefly where the money goes? **Jerry LaChere** responded that needed to correct something in terms of where the money initially went. It definitely went to teachers retirement, but the idea of that was to reduce property taxes. At that point in time, what should have happened was the money went to individual counties and was supposed to reduce mill levies. That was the original intent of the money. Then when the teachers retirement became part of the school foundation program, that is when the money was directly going to education. Also, part of the money at different points of time went to the Board of Crime Control. For the last four fiscal years, the money goes to the general fund.

REPRESENTATIVE ROY BROWN said that there seems to be a disagreement between yourself and the other witnesses whether this is an expansion of gambling or not. Could you defend your side of the story a little better as to how you consider this is not an expansion of gambling? **Jerry LaChere** responded that, by the language in the bill, the lottery game must already exist. In one instance, that is where all of a sudden there was a non-state requesting to be a member of the game that already exists, we would have to remove one game and then do the new game. What happens with game designs is in some cases the game is just fine

if another state or a non-state joins the lottery, no game change is required. In other circumstances when you have other lotteries join a game, the game change has to be made. In essence this is a different game, which means that we have replaced one game with a new game. From that perspective, they are offering the same number of games.

REPRESENTATIVE DELL said that it seems that one of the goals is for the lottery to get some big numbers to get enough people interested in buying lottery tickets. **Jerry LaChere** responded that certainly one type of game we offer definitely is to have large jackpots to get more people to participate because individuals sometimes participate based upon the size of the jackpot. **REPRESENTATIVE DELL** was thinking that by getting other games you will be able to get larger jackpots that will in turn possibly increase the number of people that would participate in buying lottery tickets. **Jerry LaChere** responded that certainly would be the case in some of the game designs, absolutely.

REPRESENTATIVE DELL asked that in the event that we are talking about expansion of gambling in terms of the increasing number of people that participate, that would be a positive thing as far as you would view it, right? **Jerry LaChere** responded that as far as participation is concerned, certainly the more people that participate into the game would be a positive situation for both the lottery and the state, yes.

REPRESENTATIVE SCHMIDT asked that this is, then an expansion of gambling? **Jerry LaChere** answered that in terms of the number of games, it is not. In terms that there may be more people playing, if you wanted to define that as an expansion of gambling, he does not deny that. It all depends on your definition. They are trying to keep the same number of games, not lose any of the games they have.

REPRESENTATIVE STORY asked when you get into negotiating agreements with other states or territories or even foreign governments allowed to cooperative gambling agreements where you either join up with a group that already has lottery or someone else joins a group you are in, then you end up in a circumstance where you have an opportunity to join another group of lottery states or Canada or something. What leverage does the state of Montana have in that process? **Jerry LaChere** responded that almost all of the lotteries are looking for the condition of populations. We certainly don't bring the largest population, but we do bring our population to the table. That, in essence, is what we offer. **REPRESENTATIVE STORY** asked, since we are already in a pool with several other states, what is the risk of those states, or do they have the option already that they can

get into an expanded pool to a point where we can no longer participate? **Jerry LaChere** responded that we are involved with 20 other lotteries. In those lotteries 11 of them can join an international game and 8 of them can not. That would be the representative of all the Power Ball states. In the other games it would vary upon which game you were talking about. For example, we have a wild card game with South Dakota and Idaho. Idaho can go into an international agreement, but South Dakota can not.

REPRESENTATIVE CURTISS asked, what role does the Gambling Control Division of the Department of Justice have, if any, in administering or oversight of the present gaming activities?

Gene Huntington responded that their role specifically in this does not deal with states, but with the mention of other entities there. Indian tribes as other entities and they are a member of a committee involving other state agencies that negotiates the compacts that regulate gaming on the reservations. Not only for the tribes, but non-tribal members that have gaming on the reservation. **REPRESENTATIVE CURTISS** asked who would have some kind of supervisory oversight of the overall activities? **Gene Huntington** said that he doesn't believe that they would have, in terms of the lottery, any role in that. Unless it involved gambling devices or something coming into Montana. **Jerry LaChere** said that, in terms of oversight, they are directed by the Lottery Commission, attached to the Department of Commerce, they review the things that they do. They are audited by the state auditor bi-annually and from a financial standpoint, they are audited every year.

REPRESENTATIVE SMITH asked if the goal is to expand this gambling opportunity by including more lottery availability and dropping one of these games that isn't as popular to then increase the popularity and increase the usage? **Jerry LaChere** responded that the goal is not to drop any of the games at this point in time. The thing is to make sure that if one of these games turned out not to be in existence, they would have possibly other opportunity to continue with a similar type of game.

Closing by Sponsor:

{Tape : 2; Side : A; Approx. Time Counter : 5.6}

REPRESENTATIVE MCKENNEY mentioned that the lottery is entertainment. That is what it is for the folks that play it, it has an entertainment value. Part of that entertainment value is playing games. If we think about the movie industry, the movie industry is entertainment. There are movies that come out that

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are blockbusters, think of the movie Titanic. Many people saw that movie 3, 4, and 5 times. But eventually people stopped buying the movie ticket to go see the Titanic, they wanted a different entertainment value. Movie theaters pulled the Titanic and put in another movie. The lottery needs to do the same thing to keep the interest up with the players; they need to change the game from time to time. We have seen that happen over the past 10 + years. The lottery is telling us that in the future, part of changing games may mean joining organizations that are not states. They are just trying to keep the field open and trying to keep their options open, so when the time comes and they do need to change games to keep the current interest, they will be able to. Lets be honest, there are some folks here that are absolutely opposed to gambling, and he respects their opinion. If they want to find a sponsor and present a bill to kill the lottery, they certainly can do that. If we want a slow death of the lottery, lets not ever permit a new game and eventually we will have a slow death of the lottery. If that is the intent, that is one way to do it. Some folks talked about education, that the money from the lottery is not going to education. Quite frankly, a lot of it is. The money from the lottery is going to the general fund. He serves on the education committee who just heard a report yesterday that 60% of the general fund money is going to education. So this money is working its way to education. This really is a common sense bill, it is for the entertainment of the players.

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ADJOURNMENT

Adjournment: 4:15 P.M.

REP. AUBYN A. CURTISS, Chairman

STACI LEITGEB, Secretary

AC/SL

EXHIBIT (feh06aad)